

MANUEL DE LISA AND JOACHIN DE LISA, OR THEIR
LEGAL REPRESENTATIVES.

[To accompany bill H. R. No. 716.]

JANUARY 16, 1857.

Mr. PORTER, from the Committee on Private Land Claims, made the
following

REPORT.

The Committee on Private Land Claims submit the following report:

That on the 16th day of July, 1799, Manuel de Lisa and Joachin de Lisa petitioned the lieutenant governor of Upper Louisiana to grant to each of them, separately, six thousand arpents of land on the banks of the Missouri river; that on the 17th day of the month and year last aforesaid the lieutenant governor, Zeno Trudeau, granted to said Joachin and the said Manuel de Lisa six thousand arpents of land each, and ordered the same to be surveyed by the surveyor general, Don Antonio Soulard; that said grants were absolute, and not conditioned; that it does not appear that said Soulard ever surveyed for said Lisa said pieces of land. Your committee further report, that by the treaty of 1803, under which the United States acquired Louisiana, it is provided that the citizens of the ceded territory shall be protected by the government of the United States in all their rights to their property of any nature, kind, and description. Your committee further find that the Supreme Court of the United States have repeatedly held that the Spanish citizens acquired an inchoate vested right in property thus granted to them, and which the government of the United States, according to the letter and spirit of the treaty, was bound in good faith to recognise and protect. Your committee find that the papers relative to said grants are of record in the recorder's office of land titles of Upper Louisiana; that as early as 1806 application was made to the board of commissioners to have said grants confirmed; that the same was from time to time renewed, to wit: in 1808, 1810, 1832, and 1833. Your committee find that, in November, 1833, final action was had by the board on said claims, and that the commissioners unanimously recommended the same to Congress for confirmation; but the reason the same was not confirmed your committee are unable to perceive, unless it be that said claims had never been surveyed or located. Your committee find that both of said claims are in the first class of claims recommended to Congress

for confirmation by said board; that from the evidence produced before said board, and of record, it appears to the satisfaction of your committee that said grants are genuine, and made in good faith. Your committee are of opinion that good faith on the part of this government requires that said claims shall be confirmed.

The third article of the treaty of the 30th April, 1803, by which France ceded to the United States the Louisiana territory, provides: "That the inhabitants of the ceded territory shall be incorporated in the United States, and admitted as soon as possible, according to the principles of the federal constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States, and in the mean time they shall be maintained and protected in the free enjoyment of their liberty, *property*, and religion which they possess."—(See United States Laws at Large, vol. 8, page 202.)

In the case of Chouteau's heirs *vs.* The United States, (9 vol. Peters' United States Reports, page 137,) Judge Marshall says: "The lieutenant governor was also a sub-delegate, and, as such, was empowered to make inchoate grants. They are property, capable of being alienated, of being subjected to debts, and is, as such, to be held as sacred and inviolate as other *property*." If Judge Marshall is right, that these inchoate grants are *property*, then they are protected by the treaty; and when the inhabitants of the ceded territory were incorporated into the United States, we were bound by the treaty to complete their titles. Our national honor demands it. It cannot be that the United States will violate the treaty, and confiscate the lands of the inhabitants in the ceded territory.

In the case of Delassus *vs.* The United States, (9 Peters, page 117,) Judge Marshall says: "The stipulations of the treaty ceding Louisiana to the United States affording that protection or security to claims under the French or Spanish governments to which the acts of Congress refer, are in the first, second, and third articles. They extend to all property until Louisiana became a member of the Union, into which the inhabitants were incorporated as soon as possible, and admitted to all the rights, advantages, and immunities of citizens of the United States. The perfect inviolability and security of *property* is among these rights. The right of property is protected and secured by the treaty, and no principle is better settled in this country than that *inchoate title to land is property*. This right would have been reserved independent of the treaty. The sovereign who acquires an inhabited country acquires full dominion over it; but this dominion is never supposed to divest the vested rights of individuals in property. The language of the treaty ceding Louisiana excludes any idea of interfering with private property. The concession to the petitioner was legally made by the proper authorities. A grant or concession made by the officer who is by law authorized to make it, carries with it *prima facie* evidence that it is within his power. He who alleges that an officer intrusted with an important duty has violated his instructions, must show it."

And they herewith report a bill confirming said grant or concession.